

By: Staples

S.B. No. 9

A BILL TO BE ENTITLED

AN ACT

relating to homeland security; providing a penalty.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 71.0081, Agriculture Code, is amended by adding Subsection (c-1) to read as follows:

(c-1) The department may execute agreements with corporations or other private concerns to provide goods or services to establish checkpoints or conduct inspections under this section.

SECTION 2. Section 418.004, Government Code, is amended by adding Subdivision (9) to read as follows:

(9) "Regional planning commission" means a regional planning commission, council of governments, or other regional planning agency created under Chapter 391, Local Government Code.

SECTION 3. Subsection (c), Section 418.107, Government Code, is amended to read as follows:

(c) A political subdivision or regional planning commission may render aid to other political subdivisions or regional planning commissions under mutual aid agreements.

SECTION 4. Subsection (d), Section 418.109, Government Code, is amended to read as follows:

(d) A municipality, county, emergency services district, fire protection agency, regional planning commission, organized volunteer group, or other emergency services entity may provide mutual aid assistance on request from another municipality, county,

1 emergency services district, fire protection agency, regional
2 planning commission, organized volunteer group, or other emergency
3 services entity. The chief or highest ranking officer of the entity
4 from which assistance is requested, with the approval and consent
5 of the presiding officer of the governing body of that entity, may
6 provide that assistance while acting in accordance with the
7 policies, ordinances, and procedures established by the governing
8 body of that entity and consistent with any mutual aid plans
9 developed by the emergency management council.

10 SECTION 5. The heading to Subchapter B, Chapter 421,
11 Government Code, is amended to read as follows:

12 SUBCHAPTER B. HOMELAND SECURITY [~~CRITICAL INFRASTRUCTURE~~
13 ~~PROTECTION~~] COUNCIL

14 SECTION 6. Subsection (a), Section 421.021, Government
15 Code, is amended to read as follows:

16 (a) The Homeland Security [~~Critical Infrastructure~~
17 ~~Protection~~] Council is composed of the governor or the governor's
18 designee and one representative of each of the following entities,
19 appointed by the single statewide elected or appointed governing
20 officer or administrative head of the entity:

- 21 (1) Department of Agriculture;
- 22 (2) office of the attorney general;
- 23 (3) General Land Office;
- 24 (4) Public Utility Commission of Texas;
- 25 (5) [~~Texas~~] Department of State Health Services;
- 26 (6) Department of Information Resources;
- 27 (7) Department of Public Safety of the State of Texas;

1 (8) division of emergency management of the office of
2 the governor;

3 (9) Texas National Guard;

4 (10) Texas Commission on Environmental Quality;

5 (11) Railroad Commission of Texas;

6 (12) Texas Strategic Military Planning Commission;

7 [~~and~~]

8 (13) Texas Department of Transportation;

9 (14) Commission on State Emergency Communications;

10 (15) Office of State-Federal Relations;

11 (16) Secretary of State;

12 (17) Senate Committee on Transportation and Homeland

13 Security;

14 (18) House Committee on Defense Affairs and

15 State-Federal Relations;

16 (19) Texas Animal Health Commission;

17 (20) Texas Association of Regional Councils;

18 (21) Texas Commission on Law Enforcement Officer

19 Standards and Education;

20 (22) Texas Department of Insurance (arson

21 investigators);

22 (23) Texas Education Agency;

23 (24) Texas Commission on Fire Protection;

24 (25) Parks and Wildlife Department;

25 (26) Texas State Guard; and

26 (27) Texas Water Development Board.

27 SECTION 7. Section 421.071, Government Code, is amended to

1 read as follows:

2 Sec. 421.071. COOPERATION AND ASSISTANCE. A state or local
3 agency that performs a homeland security activity or a
4 nongovernmental entity that contracts with a state or local agency
5 to perform a homeland security activity shall cooperate with and
6 assist the office of the governor, the Homeland Security [~~Critical~~
7 ~~Infrastructure Protection~~] Council, the Texas Infrastructure
8 Protection Communications Center, and the National Infrastructure
9 Protection Center in the performance of their duties under this
10 chapter and other state or federal law.

11 SECTION 8. Chapter 421, Government Code, is amended by
12 adding Subchapter F to read as follows:

13 SUBCHAPTER F. GOVERNOR'S INTEROPERABLE RADIO COMMUNICATIONS
14 PROGRAM

15 Sec. 421.095. DEFINITIONS. In this subchapter:

16 (1) "First responder" means a public safety employee
17 or volunteer whose duties include responding rapidly to an
18 emergency. The term includes:

19 (A) a peace officer whose duties include
20 responding rapidly to an emergency;

21 (B) fire protection personnel under Section
22 419.021;

23 (C) a volunteer firefighter who is:
24 (i) certified by the Texas Commission on
25 Fire Protection; or
26 (ii) a member of an organized volunteer
27 fire-fighting unit as described by Section 615.003; and

1 (D) an individual certified as emergency medical
2 services personnel by the Department of State Health Services.

3 (2) "Infrastructure equipment" means the underlying
4 permanent equipment required to establish interoperable
5 communication between radio systems used by local, state, and
6 federal agencies and first responders.

7 Sec. 421.096. INTEROPERABILITY OF RADIO SYSTEMS. The
8 office of the governor shall:

9 (1) develop and administer a strategic plan to design
10 and implement a statewide integrated public safety radio
11 communications system that promotes interoperability within and
12 between local, state, and federal agencies and first responders;

13 (2) develop and administer a plan in accordance with
14 Subdivision (1) to purchase infrastructure equipment for state and
15 local agencies and first responders;

16 (3) advise representatives of entities involved in
17 homeland security activities, as defined by Section 21.001, in this
18 state; and

19 (4) use appropriated money, including money from
20 relevant federal homeland security grants, for the purposes of
21 designing, implementing, and maintaining a statewide integrated
22 public safety radio communications system.

23 Sec. 421.097. ASSISTANCE. The office of the governor may
24 consult with a representative of an entity described in Section
25 421.096(3) to obtain assistance or information necessary for the
26 performance of any duty under this subchapter.

27 Sec. 421.098. REPORT. Not later than September 1 of each

1 year, the office of the governor shall provide to the legislature a
2 report on the status of its duties under this subchapter.

3 SECTION 9. Subchapter B, Chapter 12, Health and Safety
4 Code, is amended by adding Section 12.0128 to read as follows:

5 Sec. 12.0128. HEALTH ALERT NETWORK. The executive
6 commissioner of the Health and Human Services Commission shall
7 adopt rules requiring the department to include the Texas
8 Association of Local Health Officials, the Texas Association of
9 Community Health Centers, and the Texas Organization of Rural and
10 Community Hospitals in the department's Texas Health Alert Network
11 to the extent federal funds for bioterrorism preparedness are
12 available for that purpose.

13 SECTION 10. Section 341.033, Health and Safety Code, is
14 amended by adding Subsection (i) to read as follows:

15 (i) An owner, agent, manager, operator, or other person in
16 charge of a public water supply system that furnishes water for
17 public or private use shall maintain internal procedures to notify
18 the commission immediately of the following events, if the event
19 may negatively impact the production or delivery of safe and
20 adequate drinking water:

21 (1) an unusual or unexplained unauthorized entry at
22 property of the public water supply system;

23 (2) an act of terrorism against the public water
24 supply system;

25 (3) an unauthorized attempt to probe for or gain
26 access to proprietary information that supports the key activities
27 of the public water supply system;

1 (4) a theft of property that supports the key
2 activities of the public water supply system; or

3 (5) a natural disaster, accident, or act that results
4 in damage to the public water supply system.

5 SECTION 11. Subsection (b), Section 30.05, Penal Code, is
6 amended by adding Subdivision (7) to read as follows:

7 (7) "Critical infrastructure facility" means one of
8 the following, if completely enclosed by a fence or other physical
9 barrier that is obviously designed to exclude intruders:

10 (A) a chemical manufacturing facility;

11 (B) a refinery;

12 (C) an electrical power generating facility,
13 substation, or switching station;

14 (D) a water intake structure or water treatment
15 facility;

16 (E) a natural gas transmission compressor
17 station;

18 (F) a liquid natural gas terminal or storage
19 facility;

20 (G) a telecommunications central switching
21 office; or

22 (H) a port, railroad switching yard, trucking
23 terminal, or other freight transportation facility.

24 SECTION 12. Section 30.05, Penal Code, is amended by
25 amending Subsection (d) and by adding Subsection (g) to read as
26 follows:

27 (d) An offense under Subsection (e) is a Class C misdemeanor

1 unless it is committed in a habitation or unless the actor carries a
2 deadly weapon on or about the actor's person during the commission
3 of the offense, in which event it is a Class A misdemeanor. An
4 offense under Subsection (a) is a Class B misdemeanor, except that
5 the offense is a Class A misdemeanor if:

6 (1) the offense is committed:

7 (A) in a habitation or a shelter center; ~~[or]~~

8 (B) on a Superfund site; or

9 (C) on or in a critical infrastructure facility;

10 or

11 (2) the actor carries a deadly weapon on or about his
12 person during the commission of the offense.

13 (g) At the punishment stage of a trial in which the attorney
14 representing the state seeks the increase in punishment provided by
15 Subsection (d)(1)(C), the defendant may raise the issue as to
16 whether the defendant entered or remained on or in a critical
17 infrastructure facility as part of a lawful assembly or peaceful
18 and orderly petition for the redress of grievances, including an
19 assembly or petition addressing a labor dispute between an employer
20 and employee. If the defendant proves the issue in the affirmative
21 by a preponderance of the evidence, the increase in punishment
22 provided by Subsection (d)(1)(C) does not apply.

23 SECTION 13. Section 411.0105, Government Code, is repealed.

24 SECTION 14. On the effective date of this Act:

25 (1) the Public Safety Radio Communications Council is
26 abolished;

27 (2) the office of the governor replaces the Public

1 Safety Radio Communications Council as the entity responsible for
2 oversight of the development of a program related to the
3 interoperability of radio communications;

4 (3) all property, including records, in the custody of
5 the Department of Public Safety of the State of Texas that relates
6 to the Public Safety Radio Communications Council or a program to
7 promote the interoperability of radio communications becomes the
8 property of the office of the governor and shall be made available
9 to the office of the governor no later than December 1, 2005; and

10 (4) all funds appropriated by the legislature to the
11 Department of Public Safety for the purpose of providing
12 administrative support to the Public Safety Radio Communications
13 Council are transferred to the office of the governor.

14 SECTION 15. The change in law made by this Act to Section
15 30.05, Penal Code, applies only to an offense committed on or after
16 September 1, 2005. An offense committed before September 1, 2005,
17 is covered by the law in effect when the offense was committed, and
18 the former law is continued in effect for that purpose. For
19 purposes of this section, an offense was committed before September
20 1, 2005, if any element of the offense was committed before that
21 date.

22 SECTION 16. This Act takes effect immediately if it
23 receives a vote of two-thirds of all the members elected to each
24 house, as provided by Section 39, Article III, Texas Constitution.
25 If this Act does not receive the vote necessary for immediate
26 effect, this Act takes effect September 1, 2005.